

## **TIPS FROM THE OPI MONITORS**

### **1. Document the Review of Existing Evaluation Data (REED).**

**Who?** The IEP team.

**When?** The REED must be conducted prior to completing the Evaluation Plan for a reevaluation. It can be conducted at any time prior to the reeval CST. It may be most convenient to conduct the REED during the IEP meeting prior to the three-year reevaluation CST. OPI most strongly recommends this practice.

**How?** Most of the time, this process will be completed during an IEP meeting when all of the required members are present. It is not required that a meeting be conducted solely for the purposes of completing the REED. This means that the REED form may be circulated among IEP team members prior to soliciting parental input.

§300.533 Determination of needed evaluation data.

### **2. Use the most recent version of all special education forms.**

While the content and structure of special education forms is not dictated by regulation directly, the structure of the forms often guides people in practice. Because of this, forms do become an issue in monitoring and can be the underlying cause of a specific concern.

There are two fairly common issues surrounding special education forms that are contained in student records. The first issue is the use of outdated forms. It is not uncommon for a district to be currently using forms that are 2 or 3 generations old. The problem is that these older forms often do not contain all of the required components that must be addressed.

The second issue is that people do not always complete the forms they use. These issues range from things such as leaving an item blank that does not apply to a student, to things like not including any goals on a child's IEP.

§ 300.347 Content of IEP

ARM 10.16.3320 REFERRAL

ARM 10.16.3321 COMPREHENSIVE EDUCATIONAL EVALUATION PROCESS

### **3. Review your Transition planning process.**

Concerns in this area include:

- Not beginning the process by the child's 14<sup>th</sup> birthday
- Failing to invite the student or outside agency to the IEP meeting
- Meeting notice does not contain all required information
- Failing to address graduation as an exit from special education
- Failing to notify the parent(s) and student about the transfer of parental rights at the age of majority

§300.347 Content of IEP

**4. Make sure progress reports have the required information.**

Progress reports are often missing from student files or do not contain the appropriate information. IDEA requires that parents receive written progress reports at least as often as the parents of general education students are informed of their nondisabled child's progress. These reports must inform the parents of their child's progress toward the annual **GOALS** and the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year. It is recommended that teachers use a form that allows them to document the child's progress on the same page throughout the year. At the end of the year a copy of the form that shows all of the progress reports can then be attached to the IEP as documentation of meeting this requirement.

**5. Make sure PLEP, MAG, and STOB are understandable and measurable.**

The statement of the child's Present Level of Educational Performance (PLEP) must describe the child's current skills and how the child's disability affects their involvement and progress in the regular education curriculum related to the goal area. For preschool children the PLEP should indicate how the child's disability affects their involvement in appropriate activities. The PLEP should be written in language that is understandable to everyone, including the parents, and should not merely indicate the child's scores on some assessment. A well-written PLEP will serve as the basis upon which the child's progress toward the Measurable Annual Goal will be measured.

Measurable Annual Goals (MAGs) and Short-Term Objectives or Benchmarks (STOBs) need to be meaningful, measurable, able to be monitored, and useful in making decisions. A simple format to follow in writing a measurable goal would be: Under what conditions, name of learner, will name of behavior to a specific criterion/consistency. Goal statements should be specific and describe student, rather than staff, behavior. So, instead of having a goal of "Johnny will improve in his ability to follow directions" the IEP might state, "When given a task that requires following up to 5 step directions, Johnny will correctly complete each step with no prompting on 8 of 10 opportunities observed."

**6. Review aversive treatment plans.**

Concerns in this area include:

- Plans not based upon the results of a functional behavioral assessment
- Poor or no documentation of the results of positive behavioral intervention strategies attempted prior to the development of the aversive treatment plan
- No clear target behavior described
- Lack of measurable short-term objectives
- No clear description of the aversive treatment procedure to be used or the time limit for their use
- No data collection procedures specified

The *Aversive Treatment Procedures* guide available from the OPI contains a sample format for developing an aversive treatment plan that meets all of the requirements.

#### ARM 10.16.3346 AVERSIVE TREATMENT PROCEDURES

### **7. Make sure all required documents are in the students' records.**

The most common missing item is the original referral for special education evaluation. This document must be reconstructed to the extent possible from the information available about the student. Other items that are frequently missing include an access log and test protocols.

A related issue involves documents not being attached to the IEP or CST form when the form indicates that they are attached. It is important to remember, "attached means attached." This means that the documents are physically attached to each other and numbered consecutively to include all pages of attachments. This makes it apparent that they are in fact one document and makes it easy to determine if any pages are missing.

#### ARM 10.16.3560 SPECIAL EDUCATION RECORDS

### **8. Double check transfer student records.**

In-State Transfer:

IEP available: The new school district shall ensure that there is no interruption of special education and related services.

IEP unavailable or not appropriate: The new school district must develop a new IEP through appropriate procedures within a short time (normally within one week) after the student enrolls in the new school district. If there is a question as to the child's identification then the Review of Existing Evaluation Data process would be appropriate.

Out-of-State Transfer:

The new school district must determine whether to adopt the most recent evaluation and IEP. The Review of Existing Evaluation Data process could be used to identify what additional data, if any, are needed to determine eligibility under Montana rules. The determination of the student's eligibility for special education services in Montana should be documented through either the CST or IEP process. If the new district adopts the most recent evaluation and IEP then the IEP can be implemented.

If the new district rejects the former evaluation, an evaluation must be conducted without undue delay.

If the new district or the parents refuse the former IEP, an IEP meeting must be held and the IEP revised.

#### ARM 10.16.3342 TRANSFER STUDENTS: INTRASTATE AND INTERSTATE

**9. Document how others are informed of IEP requirements.**

IDEA requires that “at least one regular education teacher of the child” is a member of the child’s IEP team. Often, children have more than one regular education teacher and not all of those teachers participate in the development of the child’s IEP. The IEP must contain a statement indicating how all of the child’s regular education teachers, special education teachers, and related service providers will be informed of his or her specific responsibilities related to the implementation of the IEP and the specific accommodations, modifications and supports that must be provided to the child. It is recommended that the IEP case manager provide this notification in writing and that they retain documentation of the specific date upon which the notification was given. The *Individualized Education Program* guide available from the OPI contains a sample format for meeting this requirement.

§ 300.342 When IEPs must be in effect.

**10. Be sure a surrogate parent is appointed when necessary.**

Montana law requires that a school district have in place procedures to “assign an individual to act as a surrogate parent for a child with a disability whenever the parents or guardian cannot be identified or, after reasonable efforts the location of the parents cannot be discovered or if the child is a ward of the state.”

Under Federal and Montana law it is clear that if the child is a ward of the state the state cannot act in the role of parent for special education purposes. This means that the child’s DPHHS caseworker cannot sign for permission to evaluate or provide consent for identification or placement. They can attend the meetings and sign as a participant. Also, a DPHHS caseworker cannot be a guardian for the purpose of making educational decisions when the parental rights have not been permanently severed.

§ 300.20 Parent

MCA 20-7-461 Appointment and termination of appointment of surrogate parent